

# **AGREEMENT FOR THE COMMON USE OF POLE STRUCTURES**

**BETWEEN:**  
**CONNECTICUT VALLEY ELECTRIC CO. INC.**  
**and**  
**NEW HAMPSHIRE ELECTRIC COOPERATIVE**

**Dated June 14, 2002**

Whereas the New Hampshire Electric Cooperative ("NHEC") desires to attach a single-phase line to nine (9) poles located within the service territory of Connecticut Valley Electric Company Inc. ("CVEC") in the town of Charlestown, NH along the River Road and

Whereas CVEC is willing to permit NHEC to make such attachments subject to the terms of this agreement,

Now therefore, it is mutually agreed as follows:

- 1) NHEC will make application to VERIZON under the joint use agreement in effect between VERIZON and NHEC. NHEC will indicate to VERIZON that it agrees to pay VERIZON any and all costs that VERIZON may incur in the replacement and/or make ready of poles to accommodate the addition of NHEC's wires.
- 2) NHEC will agree, in the same application, to pay VERIZON rent pursuant to the joint use agreement between VERIZON and NHEC.
- 3) NHEC agrees to pay CVEC any and all costs incurred by CVEC to transfer to the replacement poles placed by either CVEC or VERIZON, including but not limited to, transfer labor and material, tree trimming, the acquisition of any necessary rights-of-way or permits, plus gross up for tax on contribution in aid of construction.
- 4) NHEC also agrees to pay CVEC any costs arising in the future out of any proposed changes in the attachments made by NHEC to poles within CVEC's territory.
- 5) Pole 160: NHEC will be allowed to attach a transformer and run a secondary to a pole owned by NHEC. This will count as an additional attachment.
- 6) The costs of all maintenance trimming on the poles covered under this agreement, not including any portion reimbursed by any third party, shall be shared equally by CVEC and NHEC. Unless otherwise mutually agreed to in writing, all maintenance trimming will be coordinated by CVEC and, NHEC agrees to accept invoices from CVEC or its contractors.

- 7) NHEC agrees to place a cut out with a 100 amp door and appropriate fuse at NHEC line 8 Pole 339 that can be operated, in the case of an emergency, by NHEC or CVEC to allow its crews to make emergency repairs.
- 8) NHEC will provide material and labor to erect their conductor on the easterly side of a 6 pin cross arm provided by CVEC and paid for by NHEC with maintenance and replacement of said crossarm shared equally between NHEC and CVEC. Transformers, Secondary , Services and anchors may be placed by NHEC following CVEC's Standard Practice.
- 9) NHEC agrees to pay a yearly rental of \$ 9.82 per pole per year for all poles joint with CVEC to which NHEC attaches under this agreement. CVEC shall bill on a yearly basis and payment is due within thirty (30) days from the date of the bill. Late payment of any bill is subject to a late fee of one percent (1%) per month thereof, such amounts include any prior unpaid late payment charges. Non payment of any amount due hereunder shall constitute a default of this Agreement, and subject this Agreement to termination. This rental rate is subject to periodic updates. CVEC may change the amount of the yearly rental by giving the Licensee not less than sixty (60) days written notice prior to the date the change is to become effective. Notwithstanding any other provision of this Agreement, NHEC may terminate this Agreement if the change in the yearly rental is not acceptable by providing sixty (60) days written notice of the desire to terminate.

#### Liabilities & Damage

- 10)
  - A) CVEC reserves to itself, its successors, assigns and joint users, the right to locate and maintain their poles and to operate their facilities in conjunction therewith in such a manner as will best enable them to fulfill their own service requirements. CVEC shall not be liable to NHEC for any interruption of NHEC's service.
  - B) NHEC shall exercise precaution to avoid damaging the facilities of CVEC and of others attached to poles used by CVEC, and NHEC assumes all responsibility for any and all loss from such damage caused by NHEC's employees, agents or contractors. NHEC shall make an immediate report to CVEC and any other user of the occurrence of any such damage and agrees to reimburse the respective parties for all cost incurred in making repairs.
  - C) NHEC shall defend, indemnify and save harmless CVEC, its officers, directors, employees, and agents, against and from any and all liabilities, claims, suits, fines, penalties, damages, losses, fees, costs and expenses (including reasonable attorneys' fees) including, but not limited to, those which may be

imposed upon, incurred by or asserted against CVEC, or either of them by reason of (a) any work or thing done upon the poles licensed hereunder or any part thereof performed by NHEC or any of its agents, contractors, servants, or employees, (b) any use, occupation, condition, or operation of said poles or any part thereof by NHEC or any of its agents, contractors, servants or employees; (c) any act or omission on the part of NHEC or any of its agents, contractors, servants, or employees, for which CVEC may be found liable; (d) any accident, injury (including death) or damage to any person or property occurring upon said poles or any part thereof arising out of any use thereof by NHEC or any of its agents, contractors, servants or employees; (e) any failure on the part of NHEC to perform or comply with any of the covenants, agreements, terms or conditions contained in this Agreement; (f) payments made under any Workers' Compensation Law or under any plan for employees disability and death benefits arising out of any use thereof by NHEC or any of its agents, contractors, servants or employees; (g) the erection, maintenance, presence, use, occupancy or removal of NHEC's attachments by NHEC or any of its agents, contractors, servants or employees or by their proximity to the facilities of other parties attached to CVEC's poles.

D) NHEC shall indemnify, save harmless and defend CVEC, its officers, directors, employees, and agents, from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of NHEC's attachments, including taxes, special charges by others, claims and demands for damages or loss for infringement of copyright, for libel and slander, for unauthorized uses, and from and against all claims and demands and infringement of patents with respect to the manufacture, use and operation of NHEC's attachments in combination with CVEC's poles, or otherwise. The provisions of this Article shall survive the expiration or earlier termination of this Agreement or any license issued thereunder.

- 11) Poles to be covered by this Agreement are listed in Attachment 1 of this Agreement. Attachment 1 of this Agreement may be amended from time to time, to include further poles or to drop existing poles, with a letter of agreement signed by field representatives of both CVEC and NHEC.
- 12) The operating voltage of the NHEC line will be 12.5/7.2 KV multi-grounded neutral system initially and NHEC will not change the operating voltage without the written consent of CVEC.
- 13) NHEC's facilities shall be placed and maintained in accordance with the requirements and specifications
- 14) of the latest edition of the National Electric Safety Code, and NHEC and CVEC agree that the provisions of the National Electric Safety Code are incorporated herein and made a part of this Agreement by reference. Any amendments or revisions of the said Code shall be deemed as effective as part of this

22) **60-Day Termination**

In addition to rights of termination provided to CVEC under other provisions of this Agreement, CVEC shall have the right to terminate this Agreement where:

- A. NHEC's facilities are maintained or used in violation of any law or in aid of an unlawful act or undertaking.
- B. NHEC ceases to have authority to construct and operate its facilities on public or private property at the location of the particular pole or anchor covered by this Agreement.
- C. NHEC fails to comply with any of the terms and conditions of this Agreement or defaults in any of its obligations thereunder;
- D. NHEC attaches to a utility pole and/or anchor with out having first been issued authorization therefore;
- E. The Licensee sublets or apports part of the licensed assigned space or otherwise permits its assigned space to be used by an entity or an affiliate not a party to this Agreement.

CVEC will notify NHEC in writing of any instances cited in this subpart. NHEC shall take corrective action as necessary to eliminate the non-compliance and shall confirm in writing to CVEC within sixty (60) days following such written notice that the non-compliance has ceased or been corrected. If NHEC fails to discontinue or correct non-compliance and fails to give the required written confirmation to CVEC within the time stated above, CVEC may terminate the license(s), authorization and/or rights granted hereunder for the poles and/or anchors at which such non-compliance has occurred.

23) **Immediate Termination**

Pole attachment license(s), authorization and/or rights are automatically and immediately terminated by CVEC if:

- A. Except in circumstances in which CVEC has accepted evidence of self-insurance, NHEC's insurance carrier shall at any time notify CVEC that the policy or policies of insurance as require in will be or have been cancelled or amended so that those requirements will no longer be satisfied;
- B. NHEC shall fail to pay any sum due under this Agreement;

Agreement as of the date on which such amendments and revisions are effective under the Code.

- 15) NHEC shall, at its own expense, construct and maintain its attachments and facilities on CVEC's poles in a safe condition and in a manner acceptable to CVEC. NHEC shall construct and maintain its attachments and facilities so as not to conflict with the use of the CVEC's poles by CVEC or by other authorized users, nor electrically interfere with CVEC's facilities attached thereto.
- 15) NHEC agrees to enter into an agreement with CVEC basically similar to this Agreement should CVEC need, at any time in the future, to attach to poles in NHEC's territory to provide service to any CVEC customer(s).
- 16) No use, however extended, of CVEC's distribution poles or payment of any fees or charges required under this Agreement shall create or vest in NHEC any ownership or property rights in such poles.
- 17) Nothing contained in this Agreement shall be construed to require CVEC to construct, retain, extend, place or maintain any pole or other facilities not needed for CVEC's own service requirements.
- 18) Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against CVEC entering into agreements with other parties regarding the poles covered by this Agreement. The rights of the NHEC shall at all times be subject to any existing agreement(s) or arrangement(s) between CVEC and any other Joint Owner(s) or Joint User(s) of CVEC's poles.
- 19) Nothing contained in this Agreement shall be construed to require CVEC to grant an attachment where CVEC believes that placement of NHEC's facilities would interfere with CVEC's existing service requirements or create a hazardous or unsafe condition.
- 20) No right granted under this Agreement shall extend to any of CVEC's poles where the placement of NHEC's attachments would result in a forfeiture of the rights of CVEC, Joint Owner(s) or Joint User(s) to occupy the property on which such poles are located. If placement of NHEC's attachments would result in a forfeiture of the rights of CVEC, Joint Owner(s) or Joint User(s) or both, to occupy such property, NHEC agrees to remove its attachments forthwith; and agrees to pay CVEC for any losses, damages or costs incurred as a result thereof.
- 21) When CVEC deems it an immediate threat to safety and/or an emergency exists, it may rearrange, transfer, or remove NHEC's attachments at NHEC's expense. CVEC shall make reasonable efforts to contact NHEC as circumstances permit.

#### **TERMINATION**

- C. Any authorization that may be required by any governmental or private authority for the construction, operation and maintenance of the NHEC's facilities on a pole or anchor is denied, revoked or cancelled.

24. **General**

- A. In the event of termination of any of the NHEC's licenses, authorization and/or rights hereunder, NHEC shall remove its facilities from the poles and anchors within sixty (60) days of the effective date of termination; provided, however, that NHEC shall be liable for and pay all fees and charges pursuant to provisions of this Agreement to CVEC until NHEC's facilities are actually removed from the utility pole(s) and anchor(s). If NHEC fails to remove its facilities within the specified period, CVEC shall have the right to remove such facilities at NHEC's expense without liability on the part of CVEC for damage or injury to such facilities or interruption of NHEC's services.
- B. Any license issued under this Agreement shall automatically terminate when NHEC ceases to have authority to construct, operate and/or maintain its attachments on the public or private property at the location of the particular pole covered by the license. Such automatic termination shall be stayed if NHEC has sought judicial or regulatory review of the decision that: (1) has acted to terminate such authority or (2) has declared that NHEC lacks such authority.

) This Agreement shall be effective for ten years from the date hereof and shall continue thereafter until terminated by either party by giving not less than one year's notice in writing to the other party. If NHEC, for any reason, elects to terminate this Agreement, NHEC agrees to pay CVEC any reasonable costs resulting from NHEC's discontinued use of these poles. Such costs include, but are not limited to, the costs of CVEC rearranging its wires and cables.

NEW HAMPSHIRE ELECTRIC COOPERATIVE

By: William McLaughlin Date: 6/14/02  
Title: CHIEF OPERATING OFFICER

CONNECTICUT VALLEY ELECTRIC CO., INC.

By: Robert William Date: 5/22/2002  
Title: PRINCIPAL ENGINEER

**ATTACHMENT 1**  
**Poles Covered by This Agreement**

CVEC Line	CVEC Pole	NHEC Line	NHEC Pole	Special Notes/Comments
1	154	2P	4	
	155		3	
	156		2 1/2	
	157		2	
	158		1X	
	159		1 1/2	
	160		1	
	161		1/2	
	162		1/4	
		8	339	Cut-Out Fused Disconnect